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TRANSMITTAL LETTER  
(General - Patent Pending)

APR 2 8 2003

Docket No.  
DI-5782In Re Application Of *Elizabettoni et al.*Serial No.  
10/044,234Filing Date  
January 11, 2002Examiner  
F. ChoiGroup Art Unit  
1616

Title:

**BICARBONATE-BASED SOLUTIONS FOR DIALYSIS THERAPIES**TO THE ASSISTANT COMMISSIONER FOR PATENTS:**RECEIVED**

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**Response to Office Action (2 pages) and  
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in the above identified application.

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Dated: April 22, 2003

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I certify that this document and fee is being deposited on 4/22/2003 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

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Robert J. Buccieri

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CC:



APR 28 2003 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Elizabettoni et al.

Appl. No.: 10/044,234

Conf. No.: 8974

Filed: January 11, 2002

Title: BICARBONATE-BASED SOLUTIONS FOR DIALYSIS THERAPIES

Art Unit: 1616

Examiner: F. Choi

Docket No.: DI-5782

Commissioner for Patents

Washington, DC 20231

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**RESPONSE TO OFFICE ACTION**

Sir:

## REMARKS

This Response is submitted in response to the Office Action mailed on March 26, 2003.

The Office Action is a restriction requirement. In this regard, Applicants are to choose from six (6) different groups of alleged inventions. The inventions are as follows: Group I (Claims 1-16); Group II (Claims 17-29); Group III (Claims 30-43); Group IV (Claims 44-54); Group V (Claims 53-63); and Group VI (Claims 64-72).

Applicants elect Group I (Claims 1-16) with traverse. In this regard, Applicants respectfully submit that the restriction requirement is not proper. The restriction requirement merely appears to be groupings of inventions by the Patent Office. In this regard, the Patent Office has not engaged in the proper restriction requirement analysis.

MPEP § 803 states when a restriction is proper. Specifically, in relevant part, § 803 states:

If the search and examination of the entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims that are independent to distinct inventions.

The sole analysis the Patent Office has engaged in is whether or not the inventions are distinct from each other. The Patent Office has not stated what classes and subclasses the different inventions are classified in. Therefore, how does the Patent Office know that examination of the different inventions will create any burden, let alone serious burden? The Patent Office has failed to demonstrate that examination of all the groups together would create any undue burden. Accordingly, the restriction requirement is not proper.

Therefore, Applicants respectfully request that the restriction requirement be withdrawn or that the proper analysis be set forth.

Respectfully submitted,

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